REMARKS

Claims 1-3, 6-10, 17 and 22-29 are pending. Claims 27-29 have been added. Claims 27-29 are supported by the specification, for example, at page 32, lines 10-22. No new matter is introduced.

Applicants note with appreciation that claims 6-9 and 23 have been found patentable. Claims 1-3, 10, 17, 22 and 24-26 remain rejected, although the status of claim 22 is unclear since no actual rejection of the claim is presented in the Office Action. Based on Applicant's previous Appeal Brief, the Examiner withdrew some of the previous rejections and proposed new rejections based on a different section of Koksbang '214 and a new reference to Takamuki et al. Applicants respectfully request reconsideration of the rejections based on the following comments.

Rejection Over Koksbang '214

The Examiner rejected claims 1 and 17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,512,214 to Koksbang (Koksbang '214). The Examiner refers to the abstract and column 6, lines 7-8 of Koksbang '214 for support of the rejection. Applicant respectfully asserts that these sections of the reference simply do not support the rejection. Thus, Koksbang '214 does not *prima facie* anticipate Applicant's claimed invention. Applicant respectfully requests reconsideration of the rejection based on the following comments.

"For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference. **These elements must be arranged as in the claim under review**, but this is not an 'ipsissimis verbis' test." In re Bond, 15 USPQ2d 1566, 1567 (Fed. Cir, 1990)(Internal citations omitted and emphasis added.).

The Examiner is correct that the abstract of Koksbang '214 refers to a metal vanadium oxide, lithium vanadium oxide. However, the cited section of Koksbang '214 at column 6, lines

7-8 has multiple severe and dispositive deficiencies. First, the vague reference to "submicron" particles does not indicate that the collection of particles has an average particle size of less than a micron. A non-uniform particle collection with an average particle size of many microns will contain some submicron particles.

Furthermore, Koksbang '214 at column 6, lines 7-8 only refers to vanadium oxides, such as V_2O_5. Vanadium oxide is not a metal vanadium oxide. The entire paragraph does not discuss metal vanadium oxides. The paragraph refers to vanadium oxide halogens, such as $VOCl_2$ as precursors to vanadium oxides. Perhaps, the use of M to refer the halogens has misled the Examiner. However, M in this paragraph of Koksbang '214 is NOT a metal atom; it is a halogen, Cl, Br, F, or I. See column 5, lines 59-62. However, Koksbang '214 does not talk about particles of the halogen containing compounds since the preferred halogen compounds in Koksbang '214 are liquids.

Thus, Koksbang '214 simply does not teach Applicant's claimed particle collections comprising a metal vanadium oxide. In particular, it is very clear that Koksbang '214 does not render Applicant's claimed invention *prima facie* anticipated. Applicant respectfully requests withdrawal of the rejection of claims 1 and 17 under 35 U.S.C. § 102(b) as being anticipated by Koksbang '214.

Rejection Over Koksbang '880

The Examiner rejected claims 1, 2, 17, 24 and 26 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,549,880 to Koksbang (Koksbang '880). Applicant incorporates by reference their arguments from the Appeal Brief of September 20, 2006. Applicant notes that this issue was decided favorably in a related Appeal prosecuted by their Assignee of the present application. Applicants refer to Appeal 2006-0712, a copy of which was attached to the Appeal

Brief of September 20, 2006. In view of the incorporated arguments, Applicant respectfully requests withdrawal of the rejection of claims 1, 2, 17, 24 and 26 under 35 U.S.C. § 102(b) as being anticipated by Koksbang '880.

Rejection Over Takamuki

The Examiner rejected claims 1-3, 10, 22 and 24-26 under 35 U.S.C. § 103(a) [102(b)?] as being unpatentable over U.S. Patent 5,556,738 to Takamuki et al. (Takamuki). Initially, the Office Action is ambiguous regarding the grounds of rejection. The rejection is placed under a heading directed to section 103 and the argument is directed to obviousness, but the rejection is described as an anticipation rejection. Clarification is respectfully requested. Both grounds of rejection are considered below.

With all due respect, there seems to be some misunderstanding regarding this reference. The reference does not refer to metal vanadium oxides. Thus, there seems to be no basis for rejection under either anticipation or obviousness. Takamuki clearly does not render Applicant's claimed invention *prima facie* anticipated or obvious. Applicant respectfully requests reconsideration of the rejection based on the following comments.

With respect to claim 1, the Examiner refers to vanadium pentoxide at column 5, lines 51-52. Vandium pentoxide (V_2O_5) is simply not a metal vanadium oxide composition. Applicants do not acquiesce that Takamuki teaches an oxide at all since in some contexts metal oxide "sols" refers to hydrated or hydroxide forms of the materials. Since Takamuki clearly does not teach a metal vanadium oxide, this issue is moot.

With respect to claim 10, the Examiner refers again to vanadium pentoxide. The Examiner seems to be suggesting a blend of particles with different metal oxides relates to the claimed composition of matter. Thus, there seems to be a misunderstanding. Applicant's claimed invention refers to a composition of matter that is a metal vanadium oxide. In other

words, the composition of matter has a composition of $M_xV_yO_z$, where M refers to a non-vanadium metal atom and where x, y, and z describe the stoichiometry. This is described throughout Applicant's specification. A metal vanadium oxide composition does not refer either to physical blends of different particles or to coatings on particles. This refers to a particular composition of matter that is formed into particles with the claimed average particle size.

With respect to claim 22, the Office Action does not present an argument. Thus, with all due respect, the rejection of this claim should be withdrawn or a new first office action should be presented to provide Applicant an opportunity to respond to any arguments relating to this claim.

With respect to claim 2, 3 and 46-48, the Examiner again incorrectly refers to vanadium pentoxide (V_2O_5) with respect to a metal vanadium oxide. The Examiner may be using mixed metal oxide out of context, although this issue is unclear. The claim specifically refers to a metal vanadium oxide composition. These compositions can be referred to as a mixed metal oxide as long as this phrase is viewed in the correct context. It is not reasonable for the Examiner to give a phrase NOT in the claim a broad reading while ignoring clear terminology present in the claim. The claim recites metal vanadium oxide, not mixed metal oxide. Takamuki does not disclose metal vanadium oxide compositions.

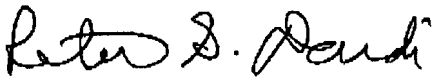
Based on the clarifying comments above, it is clear that the rejections over Takamuki are based on a misunderstanding of the scope of the reference or the claims. The comments above clarify this misunderstanding. The claims are clearly patentable as drafted over Takamuki. Thus, it is very clear that Takamuki does not render Applicant's claimed invention either *prima facie* anticipated or obvious. Applicant respectfully requests withdrawal of the rejection of claims 1-3, 10, 22 and 24-26 under 35 U.S.C. § 103(a) [102(b)?] as being unpatentable over Takamuki.

CONCLUSIONS

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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